

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 590 OF 2004

Kashibai Mahadeo Birajdar

... Appellant
(Ori.Plaintiff)

V/s

1. Manik Irgonda Patil & ors.

... Respondents
(Ori.Defendants)

Mr. Avinash B. Avhad for the appellant.

CORAM: P.V. KAKADE, J.

DATED: 28TH JUNE, 2005

P.C.:

1. The appellant has preferred this appeal against the judgment and order passed by the learned Addl. District Judge, Pandharpur, dismissing the appeal and confirming the judgment and order passed by the Civil Judge, Jr.Divn., Mangalwedha dated 2.5.2002 decreeing the suit partly and issuing perpetual injunction against the defendants from causing obstruction and interference into the plaintiff's possession over 1 hector 21 Ares land at Eastern side in Block No. 207.

2. I have heard the learned counsel for the appellant. Perused the record.

The plaintiff filed the suit for declaration that she was the owner and in possession of the suit land Block No.207/2, admeasuring 1 hector 79 Ares at village Tamdardi, Tal. Mangalwedha and also for perpetual injunction preventing the defendants from causing obstruction and interference in the plaintiff's possession over the suit land. The defendants challenged the suit on various grounds and sought dismissal of the suit.

3. The learned Trial Judge adjudicated the dispute on merits on the available evidence and came to the conclusion that the plaintiff was the owner of land to the extent of 1 hector 21 Ares in Block Nos. 207 and 207/2 as against her case regarding the ownership of the land to the extent of 1 hector and 79 ares. It was further held that the plaintiff had proved her possession over the suit land to the extent of 1 hector and 21 Ares only, but failed to prove that the defendant No.1 had agreed to sale 58 Ares of land out of land Block No. 207 to the plaintiff in July, 1983 for the consideration of Rs.11,500/-. The said amount was also held not proved to have been paid to the defendant and, therefore, it was held that the plaintiff was not

exclusive owner of the movable property and the well located in Block No. 207 i.e. motor pump and pipeline. On such and other grounds, the suit came to be decreed partly.

The appeal was carried to the District Court, Pandharpur, The Addl. Dist. Judge, Pandharpur, after hearing both parties, confirmed the findings recorded by the Trial Court and dismissed the appeal. Hence the present appeal.

4. At the outset, it may be noted that, both the Courts below are seen to have appreciated the available evidence on record which consists of involvement of factual issues which are seen to be properly adjudicated. There is no substantial question of law involved in this appeal. The basic question involved was regarding the extent of holding of the plaintiff and proof regarding alleged sale transaction. Both the Courts below are seen to have properly decided both the issues and, therefore, it would brook no interference of this Court.

In the result, the appeal stands dismissed.

(P.V. Kakade, J.)